HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

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WRIT APPEAL No.1320 of 2005

Between:

K.Ramakrishna Rao

… Appellant

AND

Manthena Venkata Raju
and five others.

… Respondents

; O R D E R :

Counsel for the appellant : Shri V.Jagapathi

Counsel for respondent No.1 : Shri V.V.L.N.Sharma

Counsel for respondent Nos.2 to 6: G.P.for Assignment.

Dated: 13th July, 2007

Per C.V.NAGARJUNA REDDY, J.

The appellant, who was not a party to Writ Petition No.30089 of 1995, has filed this appeal, with the leave of this Court, against order dated 17.3.2004 passed by the learned Single Judge in said writ petition.

In the writ petition filed by him, respondent No.1 averred that the then Tahsildar of Bhimavaram assigned an extent of Ac.2.50 cents of wet land in survey No.423/5 of Kalavapudi Village, Kalla Mandal vide D-Form Patta No.423/5 dated 20.6.1977; that after cultivating the land for some time, he leased out the same to one Manthena Krishnam Raju under a registered lease deed dated 26.5.1993 not knowing the consequences of such transfer; that, later on, he came to know about proceedings in Roc.No.A103/94, dated 9.9.1995, vide which respondent No.2 declared that transfer of land by the writ petitioner in favour of Manthena Krishnam Raju was contrary to the provisions of Section 3(1) of Andhra Pradesh Assigned Lands (Prohibition on Transfer) Act 1977 (for short 'the 1977 Act') and directed the Mandal Revenue Inspector, Kalla Mandal to take possession of the land and hand over the same to respondent No.5 (Village Administrative Officer, Kalavapudi Village). Respondent No.1 further averred that the order dated 9.9.1995 was passed without notice to him and that order dated 9.9.1995 was passed without notice to him and was also contrary to the judgments of this Court. He pleaded that even if the transfer of the land was made

in violation of the provisions of Section 4(1)(b) of the 1977 Act, the same is liable to be restored to him once and that he can be deprived of possession only in the case of second violation of the conditions of assignment.

The learned Single Judge, after hearing the parties vide his order dated 17.3.2004 upheld the aforementioned contention of the writ petitioner and allowed the writ petition with a direction that the possession of the land shall be restored to the writ petitioner in accordance with the provisions of Section 4(1) (b) of the 1977 Act.

We have heard Sri V.Jagapathi, learned counsel for the appellant.

Learned counsel for the appellant that out of an extent of Ac.13.82 cents in Survey No.423, an extent of Ac.4.70 cents was sub-divided as Survey No.423/5; that an extent of Ac.2.50 cents was assigned in favour of the writ petitioner in the said survey number and that the remaining extent of Ac.2.20 cents was assigned to the appellant on 3.11.1981. He further submitted that as the appellant was away from the village, one Manthena Narsimha Raju has converted the entire extent of Ac.13.82 cents in Survey No.423 into a fish tank along with some other land and argued that if the extent of Ac.2.50 cents is restored to the writ petitioner, there is a likelihood of the appellant's land which is contiguous to the said land of Ac.2.50 cents being encroached. Learned counsel further argued that the learned Single Judge committed an error by interfering with the order of respondent No.2 ignoring the fact that dispute with regard to the land assigned to the appellant is pending.

In our opinion, there is no merit in the submissions of the learned counsel. It is not in dispute that the extent of Ac.2.20 cents in survey No.423/5 assigned in favour of the appellant is different from the extent of Ac.2.50 cents, which was assigned to respondent No.1, and which was the subject matter of the Writ Petition No.30089 of 1995. The direction for restoration of land in favour of respondent No.1 contained in the order under appeal is in respect of the land which was admittedly assigned in favour of respondent No.1 and the appellant has nothing to do with the said land. We, therefore, fail to see any reason how the appellant is aggrieved by the order passed by the learned Single Judge in Writ Petition No.30089 of 1995. It is not the pleaded case of the appellant that the direction given by the learned Single Judge in the writ petition affects his claim qua Ac.2.20 cents of land assigned to him. That apart, no evidence has been brought on record to show that the appellant's land is being encroached by respondent No.1 or anyone else.

For the reasons mentioned above, we hold that the writ appeal is misconceived and is liable to be dismissed. Ordered accordingly.

It is, however, made clear that this order shall not preclude the appellant from pursuing his remedies in respect of the extent of Ac.2.20 cents of land in Survey No.423/5, which was allegedly assigned to him.

C.V. NAGARJUNA REDDY, J

G.S.SINGHVI, CJ

13-07-2007.

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